

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ORGANIC SEED GROWERS AND TRADE
ASSOCIATION, et al.,

Plaintiffs,

v.

MONSANTO COMPANY and MONSANTO
TECHNOLOGY LLC,

Defendants.

ECF CASE

No. 11-cv-2163-NRB

Jury Demanded

**DECLARATION OF DONALD WRIGHT PATTERSON, JR.
IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION**

I, Donald Wright Patterson, Jr., declare as follows:

1. I have lived in Fauquier County, Virginia for most of my adult life, and my farming ancestors settled in nearby Frederick County, north of Winchester, Virginia in about 1730. Their home, farmstead, and barns still exists there. The way my ancestors farmed—and the way all farming was done since the nation’s founding (and before that for millennia, since the dawn of agriculture) is now called “organic.” That means using no chemical pesticides or herbicides, no transgenic seed, and no other unnatural, unstudied, and unproven processes or technologies without many decades or centuries of prudent, cautious, and well-established healthful reliability behind them. “Organic” was the way everyone farmed even during the early 20th century in the time before chemical agriculture was introduced. That was the way it was when I was growing up on a 300 acre dairy farm where we grew all our own forage.

2. Alfalfa was one of the main crops we grew, and I would like to be able to grow organic alfalfa now, but if I were to try to grow it in the current environment, it will likely only be a limited number of years before all alfalfa everywhere in the nation and neighboring nations is contaminated by transgenic alfalfa. Within five years (according to the projections of knowledgeable plant scientists), all U.S. alfalfa is expected to be contaminated by Monsanto's transgenic alfalfa. It will not matter where it is grown or what extremes farmers might go to protect their location from contamination. The virtual certainty of contamination is now a fact of life for anyone growing or hoping to grow organic or non-transgenic alfalfa. Mutually respectful coexistence with transgenic alfalfa is considered not feasible, even though only 7% of the alfalfa crop has historically used any herbicide.
3. Further, if I were to try to grow organic alfalfa, I would be at risk of being accused of patent infringement by Monsanto if my crop would become contaminated by their transgenic alfalfa, and the only response provided by the company is to tell the growers of transgenic alfalfa to harvest their alfalfa crop before it flowers. That is their answer to the contamination threat. Expecting that instruction to be uniformly followed is like asking for chastity from wild animals. Even if farmers are willing to suffer the yield loss the instruction entails, they may not be able to accomplish the goal. The practice of agriculture is not an exact science; unanticipated events limit control, and plants have an inexorable impulse to propagate.
4. For many years, I have worked with farmers from many states and many parts of Virginia (both before and since 1992 when transgenic crops were first released onto the market), and I have long understood the threat organic and non-transgenic farmers would face from the

existence of the patented transgenic crops Monsanto sells and has used to establish a virtual monopoly in some crop seed markets. My knowledge of the potential dangers caused by Monsanto goes back to the time transgenics were first being discussed and publicized.

5. I have understood the risks to organic farming posed by transgenic agriculture because of my lifelong commitment to the organic agricultural ideal, my dedication to food integrity as a life-long consumer of organic food, and also as the owner of an organic food distributorship. I have also understood it, because I know people need the food the human digestive system has evolved to utilize. All this has gone with my commitment to organic agriculture and my desire to farm that way.
6. If the risks of transgenic contamination cannot be prudently avoided, and in my judgment they cannot be, economic considerations require that I avoid them entirely by pursuing different, less risky and ultimately doomed activities. In sum, I feel I have been denied the opportunity to farm organically as the direct result of the existence of the patents given to Monsanto on transgenic alfalfa and other crops—and because of the way Monsanto has chosen to make use of those patents to establish market control and domination in denial of agricultural freedom and opportunity for non-transgenic farmers.
7. I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge and belief.



Donald Wright Patterson, Jr.

Executed on: 10 August, 2011